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SERVICE DATE - MARCH 8, 2000

SURFACE TRANSPORTATION BOARD

DECISION

STB Finance Docket No. 33811

WISCONSIN CENTRAL TRANSPORTATION CORPORATION
—CONTINUANCE IN CONTROL EXEMPTION—
WISCONSIN CHICAGO LINK LTD.

Decided: February 29, 2000

By petition filed on December 9, 1999, Wisconsin Central Transportation Corporation (WCTC or petitioner) seeks an exemption from the prior approval requirements of 49 U.S.C. 11323, *et seq.*, to continue in control of Wisconsin Chicago Link Ltd. (WCLL), a Class III common carrier by rail, which now owns trackage in the Chicago, IL area. In its petition, WCTC also stated that WCLL shortly would lease additional trackage in the area. We will grant the petition.¹

WCTC is a noncarrier holding company that currently controls three rail common carriers: (1) Wisconsin Central Ltd. (WCL), a Class II railroad, which owns or operates approximately 2,000 miles of rail line in the states of Illinois, Wisconsin, Michigan and Minnesota; (2) Fox Valley & Western Ltd. (FVW), a Class II railroad, which owns approximately 500 miles of rail line wholly within the state of Wisconsin; and (3) Sault Ste. Marie Bridge Company (SSMB), a Class III railroad, which owns the international railroad bridge over the St. Mary's River between Sault Ste. Marie, MI, and Sault Ste. Marie, Ontario, Canada. SSMB also operates approximately 220 miles of rail line in northern Wisconsin and the Upper Peninsula of Michigan.

According to petitioner, WCLL was formed as a wholly owned, noncarrier subsidiary of WCTC. On December 2, 1999, WCLL acquired from WCL approximately 4.1 miles of rail line extending between Forest Park and Franklin Park, IL (the Forest Park Line).² WCL retained trackage rights over the Forest Park Line to serve all local shippers on that line. Prior to the consummation of the Forest Park Line acquisition, the stock of WCLL was placed into an

¹ Because WCTC controlled WCLL at its formation and before it became a carrier, WCTC has sought an exemption to continue in control of WCLL upon WCLL's becoming a carrier. In light of the fact that the stock of WCLL was placed in a voting trust prior to its becoming a carrier, however, WCTC is technically seeking an exemption to control WCLL, a company it does not now control. Our analysis is the same for an exemption to control as it would be for an exemption to continue in control.

² See Wisconsin Chicago Link Ltd.—Acquisition Exemption—Wisconsin Central Ltd., STB Finance Docket No. 33825 (STB served Dec. 6, 1999).

independent voting trust pursuant to 49 CFR 1013. The trust will remain in place until the effective date of this exemption.

Petitioner indicated in its petition that WCLL also intended to enter into an agreement with Pennsylvania Lines LLC (PRR)³ to lease the “Panhandle Line” of the former Pittsburgh, Cincinnati, Chicago & St. Louis Railroad Company in Chicago, IL. The Panhandle Line is located between milepost 309.8 at Ogden Junction near Rockwell Street and milepost 307.9 near the Ash Street Interlock, a distance of approximately 1.9 miles. Petitioner stated that WCLL would be filing an exemption notice under 49 CFR 1150.41, et seq., for its lease of the Panhandle Line. It has done so and the exemption is the subject of a notice issued by the Board in Wisconsin Chicago Link Ltd.—Lease Exemption—Pennsylvania Lines LLC, STB Finance Docket No. 33831 (STB served Feb. 10, 2000).⁴

WCLL’s Forest Park Line connects at its north end with WCL’s main line into Wisconsin at Franklin Park, and connects at its south end with the Altenheim Subdivision of The Baltimore & Ohio Chicago Terminal Railroad Company (B&OCT), a subsidiary of CSX Transportation, Inc., at Forest Park. The Altenheim Subdivision extends east to Ogden Junction, where it connects with (among other lines) the north end of the Panhandle Line. WCL operates on the Forest Park Line and the Altenheim Subdivision pursuant to trackage rights.⁵

³ The Panhandle Line had been owned by Consolidated Rail Corporation (Conrail). Pursuant to a transaction approved by this agency, PRR was assigned former Conrail assets designated to be operated as part of the Norfolk Southern Railway Company (NS) system. See CSX Corporation and CSX Transportation, Inc., Norfolk Southern Corporation and Norfolk Southern Railway Company—Control and Operating Leases/Agreements—Conrail Inc. and Consolidated Rail Corporation, STB Finance Docket No. 33388, Decision No. 89 (STB served July 23, 1998). WCTC and NS initially agreed to the proposed lease in a 1997 settlement agreement related to that transaction.

⁴ WCLL had previously filed a notice of exemption as a noncarrier to lease the Panhandle Line under the 49 CFR 1150.31, et seq. See Wisconsin Chicago Link Ltd.—Lease Exemption—Pennsylvania Lines LLC, STB Finance Docket No. 33810 (STB served Nov. 8, 1999). After the Panhandle Line transaction was unexpectedly delayed, however, WCLL proceeded to acquire the Forest Park Line before leasing the Panhandle Line. Because WCLL became a carrier when it acquired the Forest Park Line, its noncarrier exemption in STB Finance Docket No. 33810 to lease the Panhandle Line was no longer appropriate. By decision served December 6, 1999, in STB Finance Docket No. 33810, the Board granted WCLL’s request to withdraw its notice of exemption.

⁵ See Wisconsin Central Ltd.—Trackage Rights Exemption—The Baltimore and Ohio Chicago Terminal Railroad Company, Consolidated Rail Corporation, Illinois Central Railroad Company, and Chicago and North Western Transportation Company, Finance Docket No. 31659

(continued...)

The Panhandle Line is a north-south route on the west side of Chicago that parallels or crosses the tracks of numerous other carriers. Significant portions of the Panhandle Line are out of service, and there are no active shippers presently located on the line. WCLL states that it intends to reactivate and rehabilitate the entire line, and to encourage the development of new industry along the line. The petitioner maintains that the contemplated upgrading of the Panhandle Line will significantly improve through train movements in the extremely congested terminal area of Chicago and enhance the operations of other carriers within the Chicago terminal. Petitioner states that operations on the Panhandle Line will be closely coordinated with other carriers, to assure that rail operations on all trackage in the area are as fluid as possible.

The Panhandle Line does not connect directly to any trackage owned by WCTC's existing carrier affiliates. The line does connect at Ogden Junction with B&OCT's Altenheim Subdivision, over which WCL has overhead trackage rights. Petitioner states that WCL serves no local shippers on the Altenheim Subdivision, and that no WCTC-affiliated carriers have any existing right to serve shippers on the Panhandle Line.

DISCUSSION AND CONCLUSIONS

The acquisition of control of a rail carrier by a person that is not a rail carrier but that controls any number of rail carriers requires prior approval by the Board under 49 U.S.C. 11323(a)(5). Under 49 U.S.C. 10502(a), however, we must exempt a transaction or service from regulation if we find that: (1) regulation is not necessary to carry out the rail transportation policy of 49 U.S.C. 10101; and (2) either (a) the transaction or service is limited in scope; or (b) regulation is not needed to protect shippers from the abuse of market power.

Detailed scrutiny of the proposed transaction through an application for review and approval under 49 U.S.C. 11323-25 is not necessary to carry out the rail transportation policy. Rather, an exemption will promote that policy by minimizing the need for Federal regulatory control over the transaction and reducing regulatory barriers to entry [49 U.S.C. 10101(2) and (7)]; ensuring that a sound rail transportation system will continue to meet the needs of the shipping public [49 U.S.C. 10101(4)]; and fostering sound economic conditions in transportation, ensuring effective coordination among carriers, and encouraging efficient management [49 U.S.C. 10101(5) and (9)]. Other aspects of the rail transportation policy will not be adversely affected.

Regulation of the transaction is not needed to protect shippers from an abuse of market power. As noted, there will be no adverse impact on rail operations or any lessening of rail competition as a result of the proposed transaction. Rather, the transaction should improve rail service within the Chicago terminal area. Given our finding regarding the probable effect of the transaction on market power, we need not determine whether the transaction is limited in scope.

⁵(...continued)
(ICC served Oct. 31, 1990).

Under 49 U.S.C. 10502(g), we may not use our exemption authority to relieve a rail carrier of its statutory obligation to protect the interests of its employees. Petitioner asserts that no employees of WCTC or any of its carrier subsidiaries will be adversely affected by the transaction, and that employees hired by WCLL will be subject to existing collective bargaining agreements in place on the remainder of the WCTC rail system. Noting that the transaction involves 2 Class II and 2 Class III rail carriers, petitioner indicates that the labor protection conditions in New York Dock Ry.—Control—Brooklyn Eastern Dist., 360 I.C.C. 60 (1979) (New York Dock) are appropriate. Those conditions will be imposed here.

This control transaction is exempt from environmental reporting requirements under 49 CFR 1105.6(c)(2)(i) because it will not result in any significant change in carrier operations. Similarly, the transaction is exempt from the historic reporting requirements under 49 CFR 1105.8(b)(3) because it will not substantially change the level of maintenance of railroad properties.

This action will not significantly affect either the quality of the human environment or the conservation of energy resources.

It is ordered:

1. Under 49 U.S.C. 10502, we exempt from the prior approval requirements of 49 U.S.C. 11323-25 petitioners' control of WCLL, subject to the labor protection conditions in New York Dock Ry.—Control—Brooklyn Eastern Dist., 360 I.C.C. 60 (1979).
2. Notice will be published in the Federal Register on March 8, 2000.
3. This exemption will be effective on April 7, 2000. Petitions for stay must be filed by March 20, 2000. Petitions for reconsideration must be filed by March 28, 2000.

By the Board, Chairman Morgan, Vice Chairman Burkes, and Commissioner Clyburn.

Vernon A. Williams
Secretary